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Irrigation Project Development

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Answering Your Questions on

Irrigation project**development**No. 8
Oahe Conservancy Sub-District Series**Irrigation Project Development**

In 1960 the Oahe Conservancy Sub-District and the Fort Randall Conservancy Sub-District were created. People of these areas are presently interested in the possible formation of irrigation districts. The formation of districts is necessary before future planning of water contracts can be transacted.

The South Dakota statutes provide the procedure by which an irrigation district may be organized in the state.

This question and answer fact sheet has been prepared to aid those interested in the organization of an irrigation district.

What is the relationship between the conservancy sub-district and an irrigation district?

Conservancy sub-districts provide local control over large, complicated, multiple-purpose projects. An irrigation district provides local control over a single purpose irrigation project only. A conservancy sub-district includes all those people who may benefit from a project whether they are direct water users or whether they benefit indirectly by the increased business resulting from project construction. An irrigation district includes only those people who will use water directly on their lands for irrigation purposes.

What steps are involved in determining the feasibility of a proposed irrigation project?

Investigations to determine feasibility must first be made. These are the most important considerations:

Is there an adequate and dependable water supply available? This is determined from the records of water measurements in the streams and rivers over a long period.

Are the soils adaptable to irrigation? Detailed soil and topographic surveys are made to determine soil adaptability, capabilities, and what can be expected when irrigation water is applied to them.

Is it economically feasible to irrigate the lands

from the standpoint of increased revenue in relation to costs of the project? This is determined by careful and thorough economic studies. Are the charges to water users reasonable? This is determined by the willingness of water users to enter into long-term contracts to pay such charges.

If it is determined that a proposed project is feasible, what is the next step?

The next step, normally, is organization of an irrigation district, or districts by landowners, under state law. They would have authority to negotiate a repayment contract with the conservancy sub-district for that portion of the construction costs to be repaid by irrigation.

How is an irrigation district organized?

South Dakota landowners must present a petition to their county commissioners asking for the formation of an irrigation district. The petition must be signed by a majority of electors who own a majority of acreage.

According to the statutes it must be accompanied by a map of the proposed district "Which shall show the location of the proposed canal, or the works by means of which it is intended to irrigate the lands of the proposed district, and all canals situated within the boundaries of the proposed district, except such canals as merely pass through the lands and do not, in fact, irrigate any of the same. If the water supply be from a natural stream or streams, that flow of such stream or streams shall be stated in cubic feet per second. If the water supply for the district is to be gathered by a storage reservoir, the map shall show the location of the proposed reservoir and shall give its capacity in acre feet."

The law also states that a map should be drawn

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Consult your county agent if you have further questions concerning phases of irrigation or the formation of an irrigation district.

on a scale of 2 inches to a mile. It should show cross sections of the proposed canal and all other canals, and specifications on the canal capacity in cubic feet per second. It should be certified to by a competent irrigation engineer.

The petition must be accompanied by a bond of not less than \$250 or not more than \$1000.

The petition must be published once a week for two weeks prior to a hearing, together with a notice stating date of the meeting.

A copy of the petition and all maps and other papers must be filed in the office of the State Water Resources Commission for at least four weeks before the date set for the hearing. The State Water Resources Commission, after examining petitions, maps, and other papers of proposed district, prepares a report to the county commissioners of the county in which the proposed district is to be located.

The board of county commissioners may amend the plan of irrigation at the time of hearing. They may defer action, not to exceed four weeks in all, and shall define boundaries so as to exempt from the operation of this chapter any territories within the boundaries of the proposed district, not susceptible to irrigation.

The district shall be divided into 3, 5, or 7 divisions which shall be nearly equal in size for the purpose of electing directors. A notice of election shall be given by county commissioners. Notice shall be published 3 weeks prior to such an election.

Who is an elector?

An elector is any resident of the state owning not less than 10 acres of land within the proposed irrigation district.

To what extent is a landowner financially obligated if he signs a petition for a district?

If a district is formed, it has the power of levying assessment for operating costs. The formation of an irrigation district does not obligate the landowner to the construction of a project.

Commitment to construction of a project comes only after a feasibility vote to accept a repayment contract, negotiated with the conservancy sub-district. In the event of a contract between an irrigation district and the Bureau of Reclamation, the repayment contract is then made with the Secretary of the Interior.

When do the landowners vote for or against the formation of a district?

In South Dakota, electors may vote for or against

a district at the time of an election held for that purpose.

If a farm is being purchased on contract-for-deed, who signs the petition?

The owner in whose name it is recorded will sign the petition if he is a resident of the state. If the purchaser has recorded his contract-for-deed with the County Register of Deeds, he is the owner of record. If the purchaser has not recorded the contract-for-deed, he must produce evidence that he is a contract-for-deed purchaser in order to sign a petition to form an irrigation district and to vote at irrigation district elections. The contract-for-deed purchaser must be a resident of South Dakota in order to sign the petition to vote.

Can nonresidents who own land within the boundaries of the proposed district sign the petition?

No, nonresidents owning South Dakota land in a proposed irrigation district are not eligible to sign a petition or vote. This does not include the United States Government or a corporation owning 10 or more acres of land and authorized to do business in the state.

If a minor is the legal owner, who may sign?

The child's guardian may sign, but guardianship authority must be presented.

Where is the petition sent?

When all the foregoing conditions have been met, the petition should be presented to the county commissioners, accompanied by a bond of not less than \$250 or not more than \$1000 dependant on the size of the district.

Who should furnish such bond?

Those parties interested in organizing the district will have to furnish the necessary bond.

When is a district declared duly organized?

The board of county commissioners will canvass the vote cast and if a majority of all votes are in favor, the board shall declare such territory duly organized. They will then give notice of an election to be held in such district for the purpose of electing officers of the district.

How are the directors and officers determined?

Certificates of nominations for first directors and officers should be filed with the secretary of the district not less than 30 days before the annual election. Nominations should be filed with the secretary of the district, not less than 30 days before any annual

election. Nominations for the director must be signed by at least 10 qualified electors of the district division in nominating a director, and by at least 25 qualified electors of the district in nominating any other officer.

In districts organized after July 1, 1947, nominating petitions for the office of director must be signed by at least 10% of the qualified electors of the district division, and nominations for any other officer must be signed by at least 25% of the qualified electors of the district.

What are the duties of the directors and officers of an irrigation district?

The directors shall hold regular meetings on the last Tuesday of each month. All meetings are open to the public.

Special meetings may be held upon order of the president of the Board. Such order must specify the business to be transacted.

All records of the board shall be open to inspection of any elector during business hours.

A brief statement covering the proceedings shall be published in one newspaper of general circulation, in the district.

The board, its agents, and employees shall have the right to enter upon any land within the district to make surveys, etc.

The Board shall "also have the right to acquire by either by purchase of condemnation, all lands and waters and other property necessary for construction, use, maintenance, repair, and improvement of any canal . . . and lands for reservoirs for storage of water and all necessary appurtenances."

The Board shall "Also have the right to acquire by purchase or condemnation . . . irrigation works . . . ditches, canals, or reservoirs already constructed."

The Board may "construct the necessary dams, reservoirs, and works for the collection of water for the district . . . etc."

The Board "may enter into any obligation or contract with the United States government for the construction, operation, and maintenance of the delivery and distribution of water . . . etc."

The Board may contract with the United States for a water supply.

The Board "may accept on behalf of the district appointment of the district as fiscal agent of the United States, etc."

In carrying out its responsibilities, the Board shall have the power to do any and all things required by

federal statutes in connection with rules and regulations provided by a department of the Federal government.

The Board may enter into supplemental contracts.

If a farmer has irrigable land, does he have to be included in an irrigation district to receive water?

In order to be assured of an equitable supply of water from one year to another, it is advisable to be included in an irrigation district.

If a farmer is in an irrigation district and owns irrigable land and decided not to use the water, does he have to pay for anything?

Yes. All irrigable land within an irrigation district will be subject to an annual assessment for construction charges as well as for O & M (Operation and Maintenance).

Does he pay for water on the basis of amount received or the amount of land irrigated?

The annual charge or assessment is based on an acre rate depending on the amount and class of land irrigated for which the operator is entitled to a given amount of water.

If only part of his land is classified as irrigable, yet all of it is within the boundaries of the district, does a farmer pay water costs on his entire farm?

No. He pays only on that acreage classified as irrigable. For example—if there are 80 acres classified as irrigable out of a farm of 200 acres, he would pay the water charge of a specified amount per acre annually on the 80 acres.

Is there any limit to the number of irrigable acres any one owner may own within a district?

There is no limit on ownership of land, but Federal law provides that water cannot be delivered to any one individual ownership in excess of 160 acres of irrigable land; therefore, an owner may own any amount of non-irrigable land which may be included in his unit.

Can other members of a family own irrigable land in the district?

Yes. Each member of the family may own 160 acres of irrigable land.

Can an owner of 160 acres of irrigable land rent additional irrigable land?

Yes.

What is considered excess land?

Excess land in Federal Reclamation projects refers to the portion of the *irrigable land* which is in excess of 160 acres held in the beneficial ownership of any single person, or in excess of 320 irrigable acres held in the beneficial ownership of husband and wife as joint tenants or as tenants in common. Water charges will be made for lands in excess of 160 or 320 acres, but no water will be furnished to those lands unless the owner files a recordable contract for disposing of them before water is first delivered.

After irrigation is developed, water may be furnished to excess irrigable land if the land was acquired by foreclosure, or other process of law, by conveyance in satisfaction of mortgage, by inheritance or devise, for a period not to exceed 5 years after the effective date of such acquisition.

How is excess land disposed of?

A board of competent appraisers will establish a value for the excess land. The landowner may then, without penalty, sell the excess land at a price not more than the appraised value. The landowner does not have to sell until he receives a bona fide offer for his excess acreage.

Will the government buy the excess land?

No. At the present time funds are not available for the purchase of excess land.

What is a recordable contract?

The recordable contract referred to is a contract filed by excess land owners in which agreement is reached on the disposition of the excess irrigable acres within a specified time. This time usually coincides with the development period established for the project. The contract is normally filed with the water users organization before the initial water delivery, with a copy furnished to the United States government.

After the filing of the contract the excess land is eligible to receive water during the development period for the period of time so specified in the contract. In the contract, the excess land owner agrees to dispose of his land within the period specified at a price established by an appraisal committee.

How does the Anti-Speculation Act help the farmer?

The history of every Reclamation project before

the passage of the Anti-Speculation Act was that speculators realized a land boom was on the way and bought up large tracts of dry land as cheaply as possible with no intention of cultivating it. A rosy picture was painted to the actual farmers, who were forced to pay high land prices. This burdened them to such extent that they could not pay the water charges, high interest, and payments, and they had to abandon the land. This occurred on many of the projects, including the Shoshoni project in Wyoming, where land prices increased 5,000%. Since the enactment of the Anti-Speculation Act, speculation has been controlled and the farmer has had little difficulty in meeting his obligation.

What lands will be purchased by the government for this project?

Rights-of-way for canals, laterals, and drains across land patented prior to the 1890 act west of the 100th meridian and all land patented east of the 100th meridian will be negotiated for and purchased. All land in reservoir areas will be purchased. Special legislation will be requested of Congress authorizing purchase for all needed rights-of-way for the Oahe Unit, including that lying west of the 100th meridian.

How is the land acquired?

In determining a fair price for rights-of-way and reservoir areas, the usual practice is for the government to make an appraisal and then negotiate with the owner for the sale price. The appraisal is based upon the going price of similar land in the area at the time of the purchase.

In purchasing land for rights-of-way, reservoir areas, etc., ownerships are sometimes split, which creates conditions that make the unit more difficult and expensive to operate. When this occurs, severance allowances are permitted and included in the negotiations for the sales price. The facilities for crossing canals, laterals, and drains to meet farm and livestock needs are provided at no cost to the landowner. Rights-of-way and structures are also provided where canals, laterals, and drains cross township, county, and state roads.

Who determines the number of irrigable acres on each farm included in the district?

The Bureau of Reclamation, after extensive surveys and soil tests by soil technicians, provides them.